PRIVILEGED AND CONFIDENTIAL

APPENDIX ONE

PROJECT RAINBOW ELEMENTS

I. TERMS OF NEGOTIATION

- Recodification and clarification of preemption doctrine
- Five-year period of peace
- Round trip (House and Senate approval) for negotiated bill
- Enactment in 1991
- Cigarette only bill (no applicability to smokeless/pipe/cigar tobacco)

II. BASE-LINE CONCESSIONS

Advertising

- Sports stadia product advertising ban (except for brand-sponsored events)
- Billboard restrictions (i.e., limit number in urban areas and restrict proximity to schools, churches, playgrounds, etc.)
- Paid product placement ban

Youth

- Vending machine sales ban
- Sampling ban
- Promotional items ban
- Uniform minimum age laws (at least 18, possibly as high as 21)
- Limited licensing scheme for retailers (i.e., not restricting number of retail outlets)

Warnings

- New warnings (specifically to include both addiction and ETS)
- More prominent warnings (e.g., size, color, format) on packages, ads and billboards
- Application of warning scheme to exports

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Source: https://www.industrydocuments.ucsf.edu/docs/zyfb0003

Ingredients

- Enhanced disclosure of ingredients to HHS and to public with adequate trade secret (brand formula) protection
- Brand-by-brand disclosure of tar, nicotine and carbon monoxide levels to public and HHS
- HHS study of ingredient safety with report to Congress by a date certain

Education

- Establishment of Center for Tobacco Products to coordinate HHS tobacco-related activities
- Grant money to states to assist in their tobacco-related activities (perhaps including modest counter-advertising program unless there are more significant advertising restrictions)
- Grant money to establish smoke-free school facilities

III. WINNABLE ISSUES

Advertising

- Complete advertising ban
- Requirement of tombstone advertisements only
- Sponsorship ban for sports or other entertainment, cultural events
- Complete billboard ban
- Codification of industry's voluntary advertising code

Youth

- Open-ended licensing of retailers (i.e., licensing that limits number of retailers)

Warnings

- Front and back warnings on packages

Ingredients

- Excessive ingredient regulatory scheme (e.g., authority to ban individual or combinations of ingredients)

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Source: https://www.industrydocuments.ucsf.edu/docs/zyfb0003

- Brand-by-brand disclosure of ingredients <u>without</u> trade secret protection

<u>Education</u>

- Major counter-advertising program (more than $50 million)

IV. <u>POSSIBLE QUID PRO QUOS FOR PREEMPTION</u>

- Tombstone Advertising (may be able to preserve color and have 1-2 year transition)

OR

- Sponsorship Ban plus Billboard Ban (2-3 year transition)

OR

- Complete Ad Ban (5-year transition)

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Source: https://www.industrydocuments.ucsf.edu/docs/zyfb0003